IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3275 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JITENDRA BABU SOLANKI - Petitioner(s)
Versus
STATE OF GUJARAT & 12 - Respondent(s)

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Appearance :

MR JOY MATHEW for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,
LAW OFFICER BRANCH for Respondent(s) : 2,
MR JB PARDIWALA for Respondent(s) : 2,
MR SUNIL C PATEL for Respondent(s) : 3 - 13.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 14/02/2007

ORAL JUDGMENT

1. This Special Civil Application is filed under Article 226 of the Constitution of India for an appropriate writ, direction and/or order

declaring the decision of the respondents not to include the petitioner's name in the select list prepared by the respondents on 1.2.1997 as arbitrary and illegal.

2. It appears from the record that the petitioner claims to be a handicapped person and he applied for the post of peon, however, when the select list was prepared, name of the petitioner was not included in the select list.

3. Considering the affidavit in reply, it appears that case of the petitioner was considered, as he was not found fit and therefore, his name was not included in the select list (para – 8 of the affidavit in reply).

4. Today, when the matter is called out, it is reported that a fresh advertisement has been issued for the posts of peon and the petitioner has also applied for the same. Under the circumstances, it is submitted by Shri Methew, learned advocate that the petitioner is working as a daily wager on the establishment of the District Court, Navsari, as Class – IV, Sweeper on a fixed salary of Rs.2550/-. Shri Pardiwala, learned advocate appearing for the respondents has submitted that when the petitioner has already applied pursuant to the said advertisement, his case will be considered in accordance with law and on merits

sympathetically. Accordingly, it is directed to the concerned respondents to consider the case of the petitioner in accordance with law and on merits considering the fact that the petitioner is a handicapped person and working on the fixed term salary since last 18 years.

5. With these, the present Special Civil Application is disposed of. Rule discharged. No costs.

[M.R.Shah, J.]

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